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AUG 18 1993

August 18, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: MM Docket No. 93-107
Channel 280A
Westerville, Ohio

Dear Mr. Caton:

Enclosed for filing on behalf of Ohio Radio Associates, Inc. are an original and six (6) copies of its "Motion to Revoke Licenses Against Ringer."

Please contact the undersigned in our Washington, D.C. office.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By: 
John W. Hunter

By: 
Stephen F. Yelverton

Enclosure

B:CATON.95

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AUG 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of:

DAVID A. RINGER

et al.,

Applications for Construction
Permit for a New FM Station,
Channel 280A, Westerville,
Ohio

To: Administrative Law Judge
Walter C. Miller

MM Docket No. 93-107

File Nos. BPH-911230MA

through

BPH-911231MB

MOTION TO ENLARGE ISSUES AGAINST RINGER

Respectfully submitted,

MCHAIR & SANFORD, P.A.

By: _____
John W. Hunter

By: _____
Stephen T. Yelverton
Attorneys for Ohio Radio
Associates, Inc.
1155 15th Street, N.W., Suite 400
Washington, D.C. 20005
Telephone: (202) 659-3900

August 18, 1993

B:CATOW.95

MOTION TO ENLARGE ISSUES AGAINST RINGER

Ohio Radio Associates, Inc. ("ORA"), by its attorneys, pursuant to Section 1.229 (b)(1) of the Commission's Rules, hereby submits this motion to enlarge the issues against David A. Ringer ("Ringer"). This motion is based on the deposition testimony of Ringer and is filed within fifteen (15) days of receipt of the deposition transcripts. Thus, it is timely filed. In support of its motion to enlarge the issues, ORA submits the following comments.

Ringer proposes to operate his station by leasing the existing facilities of defunct Station WBBY-FM. That station operated at 3kw with an omnidirectional transmitter. Ringer proposes to operate at 4.3 kw with a directional antenna (Dep. Tr. 27, 47, 52-54, 64). See, FCC Form 301, Section V-B, pp. 15-16. Attachment 1. Ringer never considered the cost of a directional antenna in determining his cost estimates for the new station and he never made an inquiry as to how much such an antenna would cost (Dep. Tr. 53-54, 76). A written budget prepared by Ringer contains no reference to a directional antenna. See, attachment 2.

Ringer also failed to include in his budget or cost estimates funding for programming. Although he claims that programming can be obtained free from a satellite service, no inquiry was made to any satellite service as to the availability of free programming (Dep. Tr. 28, 59). Another omission in Ringer's budget is payroll taxes, such as FICA and unemployment (Dep. Tr. 60). Ringer further failed to include in his budget funding for auxiliary power, which he proposes to install and utilize (Ringer Hearing Ex. 3). Although Ringer believes that auxiliary generators will be included in the lease of the Station WBBY-FM facilities, he is not certain that the station has such equipment (Dep. Tr. 28-29, 31-32).

Ringer stated in his application, filed on December 30, 1991, that his cost estimates are \$201,880. He committed \$201,880 of his personal funds to meet his proposed cost estimates. See, FCC Form 301, Section III, p. 6. Attachment 3.

Commission policy requires that an applicant prepare at the time of certification documentation showing cost estimates for the first three months of operation, along with the construction costs. See, Revision of FCC Form 301, 50

RR2d 381, 382 (1981); FCC Form 301 Instructions (1989-1992 version), Section III (D)(1)(b), pages 5-6. Ringer failed to prepare complete cost estimates.

Accordingly, the failure of Ringer to include in his estimates the costs of a directional antenna, programming, payroll taxes, and auxiliary power generators requires the specification of a financial qualifications issue. Columbus Broadcasting Corp., 3 FCC Rcd 5480, 5481, para. 7 (NMB 1988), incomplete cost estimates raise financial qualifications issue; Dean F. Aubol, 6 FCC Rcd 4117, para. 3 (NMB 1991), where cost estimates would exceed the amount of available committed funds, a financial qualifications issue is raised; Victorson Group, Inc., 6 FCC Rcd 1697, 1700, para. 19 (Rev. Bd. 1991), vague "general sense" of total cost estimates is insufficient. Commission policy would not allow Ringer to now change or revise his stated cost estimates without a showing of "good cause." Aspen FM, Inc., 6 FCC Rcd 1602, 1603, paras. 11-13 (1991).

Moreover, it is inconceivable that Ringer, an experienced broadcaster (Ringer Hearing Ex. 2, p. 2), would have inadvertently omitted such key items as a directional antenna, programming, payroll taxes, and auxiliary power generators in his cost estimates. Accordingly, a substantial and material of fact is raised as to whether Ringer knowingly and intentionally misrepresented his financial qualifications.

The Presiding Judge is requested to specify the following issues:

(1) To determine whether David A. Ringer prepared at the time of certification, or as of the date for amendments of right, insufficient cost estimates, whether he does not have available sufficient committed funds to cover his construction and first three months of operations and, if so, whether he is financially qualified to be a Commission licensee, and thus whether his application should be granted?

(2) To determine whether David A. Ringer knowingly and intentionally misrepresented his financial qualifications in his December 30, 1991, application and, if so, whether he possesses the requisite character and basic qualifications to be a Commission licensee, and thus whether his application should be granted?

If these issues are specified, ORA requests that Ringer produce any documents related to his cost estimates which have not already been produced. This would include notes or drafts relating to Ringer's cost estimates, records

of telephone conversations and facsimile transmissions relating to preparation of his cost estimates, and documents relating to the sources of information for the costs included in his estimates.

WHEREFORE, in view of the foregoing, ORA requests that the foregoing issues be specified against Ringer.

Respectfully submitted,

McHAIR & SANFORD, P.A.

By: 

John W. Hunter

By: 

Stephen T. Yelverton
Attorneys for Ohio Radio
Associates, Inc.
1155 15th St., N.W., Suite 400
Washington, D.C. 20005
Telephone: 202-659-3900

August 18, 1993

020979.00001 ORA.70w

Section V-B - FM BROADCAST ENGINEERING DATA

FOR COMMISSION USE ONLY

File No. _____

ASB Referral Date _____

Referred by _____

Name of Applicant

David A. Ringer

Attachment 1

Call letters (if issued)

N/A

Is this application being filed in response to a window? ☒ Yes ☐ No

If Yes, specify closing date:

12/30/91

Purpose of Application: (check appropriate boxes)

☒ Construct a new (main) facility

☐ Construct a new auxiliary facility

☐ Modify existing construction permit for main facility

☐ Modify existing construction permit for auxiliary facility

☐ Modify licensed main facility

☐ Modify licensed auxiliary facility

If purpose is to modify, indicate below the nature of change(s) and specify the file number(s) of the authorizations affected.

☐ Antenna supporting-structure height

☐ Effective radiated power

☐ Antenna height above average terrain

☐ Frequency

☐ Antenna location

☐ Class

☐ Main Studio location

☐ Other (Summarize briefly)

File Number(s) N/A

1. Allocation:

Channel No.	Principal community to be served:		
	City	County	State
280	Westerville	Franklin	OH

Class (check only one box below)

☒ A ☐ B1 ☐ B ☐ C3

☐ C2 ☐ C1 ☐ C

Exact location of antenna.

a) Specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark.

12951 East State Route 37, Sunbury, Delaware County, Ohio.

(b) Geographical coordinates (to nearest second). If mounted on element of an AM array, specify coordinates of center of array. Otherwise, specify tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude	40°	14'	04"	Longitude	82°	50'	20"
----------	-----	-----	-----	-----------	-----	-----	-----

3. Is the supporting structure the same as that of another station(s) or proposed in another pending application(s)?

☐ Yes ☒ No

If Yes, give call letter(s) or file number(s) or both.

N/A

If proposal involves a change in height of an existing structure, specify existing height above ground level including antenna, all other appurtenances, and lighting, if any.

N/A

P. 2

4. Does the application propose to correct previous site coordinates?
If Yes, list old coordinates.

☐ Yes ☒ No

Latitude	°	Longitude	°
----------	---	-----------	---

5. Has the FAA been notified of the proposed construction?

☐ Yes ☒ No

If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Exhibit No.
N/A

Date _____ Office where filed _____

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

Landing Area	Distance (km)	Bearing (degrees True)
(a) <u>Pine Lake (Pvt.)</u>	<u>7.2 km</u>	<u>274°</u>
(b) <u>August Acres</u>	<u>8.0 km</u>	<u>148°</u>

7. (a) Elevation: (to the nearest meter)

(1) of site above mean sea level; 311 meters

(2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and 124 meters

(3) of the top of supporting structure above mean sea level [(aX1) + (aX2)] 435 meters

- (b) Height of radiation center: (to the nearest meter) H - Horizontal; V - Vertical

(1) above ground 119 meters (H)

119 meters (V)

(2) above mean sea level [(aX1) + (bX1)] 430 meters (H)

430 meters (V)

(3) above average terrain 118 meters (H)

118 meters (V)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except item 7(bX3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

Exhibit No.
E-1

9. Effective Radiated Power:

(a) ERP in the horizontal plane

4.3 kw (H=) 4.3 kw (V=)

(b) Is beam tilt proposed?

☐ Yes ☒ No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

Exhibit No.
N/A

 kw (H=) kw (V=)

-Polarization

P. 3

10. Is a directional antenna proposed?

☒ Yes ☐ No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of the relative field.

Exhibit No.
E-1

11. Will the proposed facility satisfy the requirements of 47 C.F.R. Sections 73.315(a) and (b)?

☒ Yes ☐ No

If No, attach as an Exhibit a request for waiver and justification therefor, including amounts and percentages of population and area that will not receive 3.16 mV/m service.

Exhibit No.
N/A

12. Will the main studio be within the protected 3.16 mV/m field strength contour of this proposal?

☒ Yes ☐ No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.
N/A

13. (a) Does the proposed facility satisfy the requirements of 47 C.F.R. Section 73.207?

☐ Yes ☒ No

(b) If the answer to (a) is No, does 47 C.F.R. Section 73.213 apply?

☒ Yes ☐ No

(c) If the answer to (b) is Yes, attach as an Exhibit a justification, including a summary of previous waivers.

Exhibit No.
E-1

(d) If the answer to (a) is No and the answer to (b) is No, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.
N/A

(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No.
E-1

- (1) Protected and interfering contours, in all directions (360°), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as the transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibit(s).

14. Are there: (a) within 50 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast *(except citizens band or amateur)* radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?☐ Yes ☒ No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(e) and 73.318.)

Exhibit No.
N/A

BUSINESS PLAN

DAVID A. RINGER
New FM
Westerville, Ohio

CONSTRUCTION COSTS

Harris/Allied Turnkey System	
Furniture & Fixtures	6,000.00
Legal Fees	50,000.00
Engineering Fees	5,000.00
FCC Filing Fees	8,790.00
Miscellaneous Expenses	50,000.00

TOTAL CONSTRUCTION COSTS	\$119,790.00
---------------------------------	---------------------

OPERATING EXPENSES

	1st month	2nd month	3rd month
Tower Site Rent	6,000.00	6,000.00	6,000.00
Studio Rent			
Satellite Service			
Electric	525.00	525.00	525.00
Telephone	1,300.00	1,300.00	1,300.00
Advertising	800.00	800.00	800.00
Salaries:			
General Manager	3,000.00	3,000.00	3,000.00
Sales Manager	1,400.00	1,400.00	1,400.00
Production Director	1,200.00	1,200.00	1,200.00
Overnight Operator	1,120.00	1,120.00	1,120.00
Weekend Staff	1,050.00	1,050.00	1,050.00
Salesman #1	1,800.00	1,800.00	1,800.00
Salesman #2	1,600.00	1,600.00	1,600.00
Bookkeeper/Office Mgr.	1,250.00	1,250.00	1,250.00
Engineer	600.00	450.00	300.00
Secretary	1,280.00	1,280.00	1,280.00
Payroll Taxes (FICA, Unemployment, etc.)			
Royalties & Licenses (ASCAP, BMI & SESCAC)	1,200.00	1,200.00	1,200.00
Debt Service			
Maintenance & Supplies	1,000.00	1,200.00	1,200.00
Insurance	555.00	555.00	555.00
Account & Legal Fees	500.00	500.00	500.00
Miscellaneous Expenses	<u>1,200.00</u>	<u>1,200.00</u>	<u>1,200.00</u>
TOTAL OPERATING EXPENSES	27,380.00	27,430.00	27,280.00

CONSTRUCTION AND OPERATION

TOTAL COSTS	201,880.00
--------------------	-------------------

Attachment 3

SECTION III - FINANCIAL QUALIFICATIONS

NOTE: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.

☒ Yes ☐ No

2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue.

\$ 201,880.00

3. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
David A. Ringer 1000 Urlin Avenue, #1017 Columbus, OH 43212	(614) 486-4532	Individual Applicant	201,880.00

COPY

Attachment 4

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In re Applications of:

DAVID A. RINGER

ASF BROADCASTING CORPORATION

WILBURN INDUSTRIES, INC.

KYONG JA MATCHAK

**WESTERVILLE BROADCASTING
COMPANY LIMITED PARTNERSHIP**

OHIO RADIO ASSOCIATES, INC.

**For a Construction Permit for
a New FM Station on Channel
280A at Westerville, Ohio**

MM DOCKET NO. 93-107

File No. BPH-911230MA

File No. BPH-911230MB

File No. BPH-911230MC

File No. BPH-911230MF

File No. BPH-911231MB

File No. BPH-911231MC

Washington, D.C.

Friday, July 16, 1993

Deposition of

DAVID A. RINGER

**a witness of lawful age, taken on behalf of the Applicants
in the above-entitled action before Oveda V. Hancock, a
Notary Public in and for the District of Columbia, pursuant
to Notice, in the offices of Smithwick & Belendiuk, 1990 M
Street, N.W., Suite 510, Washington, D.C. 20036.**

**BETA REPORTING COMPANY
(703) 684-BETA
(202) 347-2382
1-800-522-BETA**

PROCEEDINGS

Whereupon,

DAVID A. RINGER

was called as a witness and, having been first duly sworn,
was examined and testified as follows:

EXAMINATION BY COUNSEL FOR OHIO RADIO ASSOCIATES, INC.

BY MR. YELVERTON:

Q Good morning, Mr. Ringer, my name is Steven
Yelverton. I am counsel for Ohio Radio Associates, Inc.
Have you ever previously had a deposition taken or ever
testified under penalty of perjury?

A Yes.

Q Okay. Could you state, for the record, your
current address?

A 417 West Sixth Avenue, Columbus, Ohio.

Q Is this residence located within the 1 millivolt
proposed contour of your proposed station for Westerville,
Ohio?

A Yes, it is.

Q How far in, inside the 1 millivolt?

A I am not sure by mileage, I don't know, within
several miles, probably.

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(202) 347-2382
1-800-522-BETA

1 Q Okay. Prior to receiving this letter --

2 A Can I see the date again?

3 Q December 3, 1991.

4 Had you considered divesting or selling your
5 interest in the Crooksville station

6 A I had thought about it, yes. Yes.

7 Q Okay. Let's go to the Business Plan. Under
8 "construction cost," at the top it has "Harris/Allied
9 Turnkey System" and no dollar entry?

10 A Right.

11 Q Is that because you would be leasing an existing
12 station?

13 A That is correct, sir.

14 Q Okay. Further down under "operating expenses,"
15 there is an entry for "satellite service," and no dollar
16 figure?

17 A That is correct.

18 Q What are you referring to as satellite service?
19 Is that programming?

20 A Programming.

21 Q Could you tell us why there is no dollar figure
22 for satellite service or programming?

1 A Well, two reasons: first of all, there should
2 have been approximately \$500 in here, but there is not;
3 and, second of all, I may get satellite services for
4 nothing.

5 Q How would you obtain satellite services at no
6 cost?

7 A Ask them.

8 Q Excuse me?

9 A Ask them.

10 Q Okay. Is that a normal thing in the industry to
11 get free programming?

12 A Yes.

13 Q What programming services would be provided free
14 of charge?

15 A Music service, just whatever comes over the
16 satellite for advertising, exchange of advertising.

17 Q Okay. Is there any entry in this business plan
18 for auxiliary power generators?

19 A There is in the -- I believe there is in the
20 leased plan, or the plan I intend to lease.

21 Q Okay. You believe there is. Have you inspected
22 the facilities of WBBY?

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(202) 347-2382
1-800-522-BETA

1 A I have not.

2 Q You have no personal knowledge as to whether the
3 existing WBBY facilities have auxiliary --

4 A That is correct.

5 Q -- power generators?

6 A That is correct.

7 Q At any time did you receive an inventory of
8 equipment and facilities to be leased from WBBY?

9 A Yes.

10 Q Okay. When did you receive such an inventory?

11 A When I made my application -- before my
12 application was filed and -- yes.

13 Q Okay. Is it correct to state you received a
14 letter from Carl Fry?

15 A That's correct.

16 Q And it had an attachment --

17 A That is correct.

18 Q -- of facilities which would be leased?

19 A That is correct.

20 MR. YELVERTON: Okay. I'm handing Mr. Ringer --

21 MR. BELENDIUK: Just for the record, there are
22 two letters.

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1-800-522-BETA

1 says: "Enclosed herewith is an addendum to the inventory
2 previously provided to you."

3 A Yes.

4 Q Is this the second list you were referring to?

5 A Yes, sir.

6 MR. YELVERTON: Okay. I am going to hand to
7 Mr. Ringer a copy of this list.

8 BY MR. YELVERTON:

9 Q Could you take few seconds, and tell us what
10 entry in there would refer to auxiliary power generators?

11 (The witness examined the document.)

12 THE WITNESS: Okay. This has the transmitter,
13 for sure. In the second section -- my understanding was
14 that it was on this list, and I'm pointing to it.

15 MR. BELENDIUK: FMX generator. That sounds like
16 an auxiliary generator to me but I'm not --

17 MR. YELVERTON: Okay. Are we on the record?

18 THE WITNESS: Yes. I mean, I'm assuming that
19 this is an auxiliary power generator.

20 MR. BELENDIUK: I mean, just for the record, he
21 did point to it.

22 BY MR. YELVERTON:

1 Q Okay. Could you tell us on the record what you
2 believe to be an auxiliary generator on this inventory
3 list?

4 A The IVONICS FMX generator, item number one, or it
5 says "T IVONICS FMS Generator 1"

6 Q Did you ever make any specific inquiry of Mr. Fry
7 or anybody associated with WBBY as to whether your
8 assumption was correct, that this included an auxiliary
9 generator?

10 A No, no.

11 Q Would you agree that -- strike that question.
12 Did you make provision anywhere in your Business Plan,
13 otherwise for a cost of auxiliary generators?

14 A We have a miscellaneous expense account of
15 \$50,000.

16 Q As of December 1991, did you have any
17 understanding of how much auxiliary generators would cost?

18 A From my own experience, in a used market, \$30,000
19 or less.

20 Q I would like to turn your attention to copies of
21 some bank records that were turned over in document
22 production. I have one item referencing your account,

1 "liabilities, income taxes, current year," I assume,
2 meaning 1991, has income tax liability of "\$480,000." Has
3 that liability been cleared up?

4 A Yes, it has.

5 MR. BELENDIUK: Counsel, I would also bring to
6 your attention that you have a more current financial sheet
7 that would have answered that question for you.

8 MR. YELVERTON: Okay. Thank you.

9 Can we go off the record. I'm almost finished.

10 (A short recess was taken.)

11 BY MR. YELVERTON:

12 Q Mr. Ringer, I'm going to show you a letter of
13 December 31, 1991, addressed to Carl Fry, who is attorney
14 for Mid-Ohio Radio Company and the owner of WBBY. I
15 understand that you propose to lease their facilities?

16 A That is correct, sir.

17 Q This letter actually is from Mr. Belendiuk to
18 Mr. Fry, and it states:

19 "Pursuant to your letter of December 17, 1991, to
20 Mr. David Ringer, Mr. Ringer is required to provide within
21 60 days or by February 15, 1992, to Mid-Ohio
22 Communications, Inc., a showing of financial qualifications

1 counsel for ASF Broadcasting Corporation, and I have a few
2 questions, hopefully, different from the ones Mr. Yelverton
3 asked.

4 I believe you testified in response to one of his
5 questions that you had not inspected the equipment used by
6 the former Station WBBY; is that correct?

7 A That is correct.

8 Q Do you have any knowledge as to the power which
9 WBBY operated on?

10 A Three thousand watts, I believe.

11 Q Do you have any knowledge as to the type of
12 antenna they had?

13 A Not from visually looking at it but from -- no.

14 Q Mr. Ringer, I'm going to show you one page which
15 I will represent to you is taken from the engineering
16 portion of your Application. Okay, look at it for a
17 moment.

18 (The witness examined the document.)

19 BY MR. KOERNER:

20 Q Does that specify any particular type of antenna?

21 A No.

22 Q Would you please read for the record the first

1 sentence on that page?

2 A Oh, okay. Yes, it does, okay. Right, okay.
3 "The proposed antenna will be a Gen Port JSC3 CP3 3-bay
4 circular polarized directional antenna."

5 Q Okay. That's fine. Mr. Ringer, I'm going to
6 show you a page, which I think you've seen previously.
7 It's a list of equipment which I think has been identified
8 as the list supplied by Mr. Fry, or the supplemental list
9 supplied by Mr. Fry, in December 1991. I'd ask you to take
10 a look at that.

11 (The witness examined the document.)

12 THE WITNESS: Okay.

13 BY MR. KOERNER:

14 Q Can you see anything on there indicating what
15 type of antenna WBBY had?

16 A Tower and two-bay antenna.

17 Q All right. That's fine. Now, you're proposing
18 a 3-bay antenna; is that correct?

19 A That is according to this, engineering.

20 Q Is there anyplace in your Business Plan where you
21 have provided for a different type of antenna?

22 A No.

1 Q So that's not part of the Business Plan. I
2 believe you testified that WBBY operated with 3 kilowatts
3 of power; is that correct?

4 A When it was previously on the air -- truthfully,
5 I don't know. I assume that it did, but I'm not a hundred
6 percent sure of that; I don't remember right now. It was
7 close to that or something.

8 Q Do you know what power you are proposing to
9 operate with?

10 A 4.1, I believe, or something like that.

11 Q All right, that's fine. That's close enough. Do
12 you know whether you're proposing to use a directional
13 antenna or an omnidirectional antenna?

14 A Directional, or I believe it is.

15 Q Do you know what WBBY used when it was on the
16 air?

17 A I believe it was directional, but I'm not sure,
18 no.

19 Q You don't know?

20 A I don't know right now.

21 Q That's fine. I believe you testified that you
22 spend one day a week at Station WYBZ?

1 A No.

2 Q There is no price. Just answer this question.
3 Is there some financial figure opposite that listing in
4 your budget? Just answer the question.

5 A (Examining) No.

6 Q You testified you are going to -- you have plans
7 for a satellite service?

8 A Mm-hmm.

9 Q Do you know which specific satellite service?

10 A Probably Unistar.

11 Q Have you talked to them about it?

12 A I've talked to Unistar.

13 Q You have talked to Unistar. There is also no
14 entry next to "satellite service," and you said because you
15 may obtain it for free?

16 A That's one option.

17 Q Has Unistar specifically advised you that they
18 might give it to you for free?

19 A No.

20 Q Did you actually pick up any sort of rate
21 schedule from Unistar as to what it would specifically cost
22 you in this particular market?

1 A No.

2 Q Okay. Now, I notice it says under operating
3 expenses, "tower site rent" and then "studio rent." This
4 may simply be a question of clarity, but under "studio
5 rent" there is no entry. Could you explain why there is no
6 entry next to "studio rent"?

7 A That's because they are the same, tower site rent
8 and studio rent are the same.

9 Q That's collective?

10 A Yes.

11 Q I was pretty sure of that. Under "payroll
12 taxes," FICA, Unemployment, et cetera, there is no entry
13 next to that. Can you explain why there is no entry next
14 to that?

15 A (Examining) Actually, the \$1,200 for ASCAP
16 royalty, that's a mistake. If you move the \$1,200 back
17 out, then there is no entry for ASCAP, BMI and SESCAC. In
18 any event --

19 Q Okay. You answered my question. Next to the
20 line "debt service," there is no entry; is that correct?

21 A That is correct.

22 Q Do you expect to have any debt when you --

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1 think if there is a model and it is available that it
2 should be produced. I would ask you to just memorialize it
3 in a letter to me.

4 MR. KRAVETZ: Okay.

5 MR. BELENDIUK: If you would give me a second I
6 -- could we go off the record? Why don't you finish. We
7 will get done, and then I would like to see if there is
8 anything there.

9 BY MR. KRAVETZ:

10 Q You testified, I believe -- and if my
11 recollection is mistaken, correct me, rather than answering
12 wrongly --

13 A All right.

14 Q -- that you believe the power of WBBY was about
15 3 kilowatts?

16 A About.

17 Q You testified that your proposal had some higher
18 power proposed?

19 A Yes, sir.

20 Q Do you know whether or not the transmitter
21 previously used by BBY can be used to operate a higher
22 powered station?

1 is this?

2 THE WITNESS: I mean, my answer is he told me
3 that this thing cost him \$6,000.

4 BY MR. KRAVETZ:

5 Q Why couldn't he put it up?

6 A I don't know.

7 MR. BELENDIUK: Objection, relevance.

8 MR. KRAVETZ: Not at all. He testified this is
9 the basis of his understanding.

10 MR. BELENDIUK: Ask your next question.

11 BY MR. KRAVETZ:

12 Q Have you yourself ever priced an antenna, the
13 cost of an antenna?

14 A Not from Harris or anybody like that, no.

15 Q From anybody other than this person?

16 A No.

17 Q What station was this?

18 MR. BELENDIUK: Objection. Relevance?

19 MR. KRAVETZ: The relevance is he has testified
20 to it and I have the right --

21 MR. BELENDIUK: I direct the witness not to
22 answer.